

Remarks/Arguments

This application has been carefully considered in light of the Non-Final Office action mailed March 17, 2009. As a result, minor amendments have been made to the claims to further distinguish the invention with respect to the prior art, it being emphasized that the claims as previously amended are believed to already defined an invention not suggested or disclosed by the prior art. No new matter has been added. It would be appreciated if the Examiner would indicate the acceptance of these amendments in the next Office communication.

Allowable Claims

The Examiner has indicated in the latest Office Action that claims 3,4, 13-16 and 18-20 are directed to allowable subject matter and would be allowed if amended to include all the limitations of the base claim and any intervening claims.

Drawings

The Examiner has objected to the drawings for not showing "at least one projection is spaced from said sealing disc when said closure member is mounted to the neck of the container." In

this respect, the Examiner's attention is directed to Fig. 4 of the Drawings to the element "d" and to the description in the original specification at the paragraph beginning at line 15 of page 9. As noted, "the projection 344 is spaced apart from the disc 121 by a non-zero distance d, this avoiding local deformation of the edge 321 by the projections 344 and equivalent." Thus, when the cap is fully seated on the neck of the container, the projections are spaced at the distance "d" from the sealing layer 321. In view of the foregoing, reconsideration of the objection to the drawings is respectfully requested.

Claim Rejections - 35 USC § 112, first paragraph

The Examiner has rejected claims 1-5 and 11-20 under 35 U.S.C. 112, first paragraph, stating that there is no support in the claims for the phrase "said at least one projection is spaced from said sealing disc when said closure member is mounted to the neck of the container." The Examiner further states that the disclosure sets forth that the "sealing disc including a sealing layer." It is believed that the explanation set forth above is applicable to this rejection as well. The spacing "d" is shown in Fig. 4. When the cap is to be removed, the projection(s) 344

will move toward the sealing layer and engage and lift the sealing layer to urge the sealing layer from the upper edge of the opening into the neck of the container. In view of the foregoing, reconsideration of this grounds of rejection is respectfully requested.

Claim Rejections - 35 USC § 103

The Examiner is rejecting claims 1, 2, 5, 11, 12 and 17 under 35 U.S.C. 103(a) as being obvious over US Patent 2,009,666 to Keith, hereinafter "Keith". For the reasons set for below, reconsideration of this rejection and favorable consideration and allowance of the claims is solicited.

Keith has been cited as disclosing a closure having a sealing disc 31 including an outer annular portion projecting radially outwardly from a opening edge of a container, a ring and a closure member wherein the ring has at least one projection formed by a series of flutes which, in the Examiner's opinion, provide an upward force on the sealing disc in a removal direction of the cap. What the flutes of Keith do not do is extend beyond the upper edge of the ring, generally parallel with the central axis of the opening in the container and toward the

outer radial portion of the sealing disc, as is the case with the present invention. In the reference, the upper edge of the ring 22 is actually defined by the annular series of flutes 24 that actually extend laterally relative to the filler disk 31. Also, as shown in the drawing figures of the reference, when the ring is seated within the cap, the fluted upper edge of the ring engages the filler disk 31, such that there is no spacing between the flutes and the disk which is contrary to the spacing limitation set forth in the claims of the present application wherein the projection(s) are spaced at a non-zero distance "d" from the sealing disk. In fact, as stated at column 2, beginning at line 47 of the reference, "The fluted character of the upper edge of the ring also extends the area of contact of the edge of the filler disk, which thus also contributes to the effective retention of the disk in place." Thus, in Keith, the desire is for the upper edge of the ring to engage the disk as opposed to being spaced from the disk, as is taught with the present invention, wherein that at least one projection which extends upwardly from the upper edge of the ring member is spaced at a distance "d" from the sealing layer.

As noted, the flutes 24 of Keith do not extend parallel relative to a central axis of the opening in the container, as

does the at least one projection 344 of the claimed invention. Rather, the flutes extend in a radial direction.

Further, it should be noted that Keith's filler disk 31 does not teach a sealing layer that is adhered to the upper edge of the neck of the container. Rather, Keith defines his disk to be made of cork, pulp-board, felt or other material with the disk being held in place by the upper fluted edge of the ring forcing the disk against the bottom of the cap. There is no teaching or disclosure of any adherence of this material to an upper edge of the neck of the container.

It is respectfully submitted that the reference to Keith does not disclose nor make obvious the present invention as claimed. Also, the structure of Keith is such that the cap does not have the same characteristics nor require a leveraged removal of a sealing layer so that the sealing layer remains with the cap when the cap is removed, as is the case due to the structure of the sealing layer of the present invention. With the present invention, an upper edge of a container which defines an opening to the container is engaged and sealed by a sealing disc 122 that is mounted within a skirt portion of a cap 125. The sealing disk includes an glue material that seals it to the upper edge of the neck of the container, see Page 2, the paragraph beginning at

line 8 of the present application, as well at page 4, beginning at line 9. The invention also includes a ring member 124 that is in threaded engagement with a screw thread 111 on the container is mounted within the cap, so as to be rotatable therewith. The ring member includes at least one projection 344 that is oriented toward an outer and underside portion of the sealing disc and spaced therefrom a non-zero distance "d". The outer portion of the sealing disc is claimed as extending "radially outwardly from said opening edge of said neck." In this manner, when the cap is rotated to open the opening into the container, the at least one projection of the ring member will move upwardly and engage and lift up the outer portion of the sealing disc to thereby separate the sealing disc from the upper edge of the container thereby opening the opening into the container. As noted, the skirt 352 of the cap surrounds the ring, see page 5, the paragraph beginning at line 21 of the present application as filed.

In Keith, the upper edge of the container is not sealed by a sealing disc that is adhered to the upper edge of the neck of the container. In view of the foregoing, there is no need nor desire to remove a seal from the upper edge defining the opening in the container upon removal of a cap, as is the case in the present invention. There is also no suggestion nor teaching of any need to provide a structure for a cap that will lift an adhered seal

from engagement with an upper edge of a container that defines the primary opening into the container as a cap is removed, as is the case with the structure of the present invention.

In view of the foregoing, reconsideration of the rejection under 35 U.S.C. 103(a) is respectfully requested and favorable consideration and allowance of the claims requested. Should the Examiner have any questions regarding this response, the amendments submitted herewith, or the allowability of the claims, it would be appreciated if the Examiner would contact the undersigned attorney of record at the telephone number provided below for purposes of facilitating prosecution of this application and for scheduling an interview, if necessary, before taking any action that may be considered as final.

Respectfully submitted,

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By 

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